FACTSHEET

AGRICULTURAL ENGINEERING | BUSINESS MANAGEMENT

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Ontario Ministry of Agriculture, Food and Rural Affairs

Nutrient Management Act, 2002

LOCAL ADVISORY COMMITTEES

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(Replaces OMAFRA Factsheet, *Local Advisory Committees*, Order No. 05-015)

INTRODUCTION

Several municipalities in Ontario have had success with local mediation committees in dealing with conflict related to agricultural activities, including nutrient management issues, in their communities. Local Advisory Committees (LAC) are a tool to involve community members in dealing with their issues around nutrient management.

The main purpose of a LAC is to deal with complaints and concerns related to the storage and land application of materials containing nutrients. Examples could include neighbour disputes or concerns regarding the storage or use of nutrients. The definition of "nutrient" includes fertilizer, organic materials, biosolids, compost, manure, septage, pulp and paper sludge, and other materials applied to land for the purpose of improving the growing of agricultural crops. These materials may be generated from agricultural activities and include livestock manure, washwater and compost. Non-agricultural activities may include the generation of sewage bio-solids, pulp and paper bio-solids, and other organic by-products such as those from food production, as well as commercial fertilizers and compost.

The Local Advisory Committee can be involved in:

- mediation
- education
- consultation

The LAC will not mediate incidents that represent a contravention of any legislation. These will be dealt with by the appropriate agency responsible for the legislation. The LAC will not review, approve or endorse any nutrient management strategies or plans.

Local Advisory Committees (LACs) can be established at the upper tier (county or region) or lower tier (town or township) level depending on the needs of the municipality.

TEN STEPS TO ESTABLISHING A LOCAL ADVISORY COMMITTEE

STEP 1: Determine the need for a LAC

Ask the following questions:

- Have you received periodic complaints of conflicts between agriculture operations and other local residents involving the management of materials containing nutrients?

- Do community residents need information about best management practices related to the use and management of materials containing nutrients?

STEP 2: Become familiar with legislation that affects agricultural activities

The municipality needs to be familiar with legislation such as the Nutrient Management Act, 2002 (NMA), the Ontario Water Resources Act (OWRA), the Environmental Protection Act (EPA) and the Pesticides Act (PA), their impact on agricultural operations as well as the LAC's roles and operations.

STEP 3: Determine the composition of the committee

Several municipalities have had success with their LAC by using the following guidelines.

- The committee should include a minimum of five people.
- Members should be residents of the municipality and have knowledge of nutrient management practices.
- A majority of members should be farmers or represent any agricultural operation.
- At least one member should be a non-farmer.
- At least one member should be a member of council or a municipal employee.

STEP 4: Establish the committee

A municipal council may pass a by-law to establish the committee. This may occur at either the upper tier (county or region) or lower tier (town or township) level. The municipality may select committee membership by a combination of means, including: requesting organizations to delegate member representatives, seeking volunteers using newspaper advertisements or public broadcasts, or appointing members.

STEP 5: Determine the operation of the committee

This municipal council shall appoint a chair and one or more vice-chairs. The committee can adopt the relevant rules of procedures as used by other successful municipalities.

STEP 6: Determine the procedure for conducting a successful mediation

Mediation is one key responsibility of a LAC. The LAC will not mediate incidents that are a contravention of any legislation. Other details of the process, such as the type of incidents the committee will mediate and disclosure of conflict of interest and confidentiality, are at the discretion of the municipality and the LAC.

STEP 7: Evaluate the education and consultation needs of your community

The LAC should become involved in educating people about managing materials containing nutrients. The municipality and LAC should proceed based on the targeted needs of the local community. For example, the LAC may act as an advisor to the municipality and provide input on building permits and site plan issues. The committee cannot be involved in evaluating nutrient management plans or strategies that are submitted for approval or review for compliance with the NMA.

STEP 8: Provide training for committee members

LAC members need to be appropriately trained to fulfil their responsibilities, recognize their limitations and carry out successful mediation. Success in resolving conflicts depends on the ability of committee members to understand and utilize mediation strategies that fit the dispute situation and parties involved. Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) and the Ministry of the Environment (MOE) staff can act as a resource to the committee by providing technical guidance and training assistance where possible.

STEP 9: Determine on-going reporting and evaluation of the committee

The by-law establishing the committee may require the chair to report to the municipality. If so, the committee should report to the municipal clerk. The municipality should also consider how to monitor and evaluate the effectiveness of the committee. The municipality may collect data related to the incidents investigated by the LAC in order to determine the merits of the program or to assess whether or not alterations in the approach are needed.

STEP 10: Inform the community about the Local Advisory Committee

It is important to inform the community about the role and process of the LAC. Ensure that government agencies, farm groups and community members know about the committee and have realistic expectations of its role.

WHO TO CALL ABOUT NUTRIENT MANAGEMENT

Both the Ministry of the Environment and the Ministry of Agriculture, Food and Rural Affairs receive calls on concerns related to agriculture, including complaints regarding farm operations, potential environmental concerns and reports of farm-related spills.

OMAFRA Agricultural Information Contact Centre (AICC)

The AICC handles general inquiries about agriculture as well as responds to disturbance complaints, such as odour, noise, light, smoke, dust, flies and vibrations. OMAFRA staff review and evaluate disturbance complaints to determine if the matter is a normal farm practice, as defined in the Farming and Food Production Protection Act. If the matter is not a contravention of any legislation, it may then be referred to the LAC.

Telephone: 1-877-424-1300
Northern Ontario Regional Office: 1-800-461-6132

Local MOE district/area offices

Individual numbers can be found in the blue pages of local phone books. MOE has 22 district and area offices across Ontario responsible for responding to environmental incidents, complaints and spills, including those that are agriculturally related. Staff respond to calls that report potential violations of the NMA, 2002, the Environmental Protection Act (EPA), the Ontario Water Resources Act (OWRA) and/or the Pesticides Act (PA), as well as more general reports of environmental incidents or concerns.

MOE Spills Action Centre (SAC) 1-800-268-6060

The SAC, staffed on a 24-hour basis, receives and records province-wide reports of spills and co-ordinates responses. Spills are defined as releases of pollutants into the natural environment originating from a structure, vehicle or other container, and that are abnormal in light of all circumstances. Spills must be reported immediately to the action centre and to the municipality by the owner/operator when they cause or are likely to cause an adverse effect. It is the responsibility of the SAC to receive the call and co-ordinate a response through the local district or area office.

OMAFRA Nutrient Management Information Line: 1-866-242-4460

The Nutrient Management Information Line operates during business hours and provides information on specific nutrient management questions. You can also be referred to be a specialist in your area for more information. Nutrient management specialists can provide information about the NMA to a LAC.

Complaints received at OMAFRA or MOE are reviewed to determine if they are related to the land application of nutrients. If no violation has occurred the matter may be referred to the LAC.

THE MEDIATION PROCESS

The mediation process begins in one of two ways:

- complaints received by the municipality

OR

- incident reports received by either OMAFRA or the MOE

Complaints Received by the Municipality

- The municipality may receive a written complaint regarding an agricultural issue.
- The municipality consults with the Ministry of the Environment (MOE) to determine if this is a violation of the NMA, 2002 or any other legislation.
- If there is no violation of any legislation the municipality may send the complaint to the chair of the LAC.
- If there is a violation of any legislation the MOE or another appropriate agency will be notified.

Complaints Received by MOE or OMAF

- A complaint may be received at MOE district/area office or OMAFRA. Ministry staff will review the complaint and determine whether to investigate the matter themselves or refer it to the LAC.
- If the incident does not involve a violation of the NMA or other legislation, the matter may be referred to the LAC.
- If the incident involves a violation of the Act and the violation does not have an environmental impact and is considered more appropriately handled by the LAC, the matter may be referred to the LAC.
- If the province determines the matter should be referred to the LAC, the ministry must ensure that the person filing the complaint does not object to involving the LAC. The matter is referred to the LAC after permission is obtained.

Mediation Process at the Committee Level

- The committee receives the complaint or report referring the matter. The chair may form a smaller panel to conduct the mediation. At least one member of the mediation panel may be from the same or similar agricultural operation as the matter referred to in the complaint report.
- The panel will investigate the matter. If the panel finds no basis for the complaint or report, they will end the mediation.
- If at any time during the mediation, the panel determines that a violation or spill has occurred, the mediation shall be terminated.
- If the panel finds a basis for the complaint or report, they can meet separately or jointly with the farmer and the person who made the complaint. The panel may provide recommendations to the parties on how to resolve the conflict.

- When the panel's involvement ends it is recommended that they file a report with the LAC.

- If either party is not satisfied with the outcome of the mediation they may request a hearing by the Normal Farm Practices Protection Board or request the matter be referred to the municipality for further action.

Stop the Mediation Procedure

If at any time during the mediation it is determined that the incident involves a violation or a spill in the report referred to the LAC, the mediation is to be terminated according to the following procedure:

- The mediation process immediately stops.

- The panel shall not discuss the complaint further with any of the parties.

- The panel advises the parties that the panel must report the issue to MOE.

- The panel contacts the MOE, forwards the original report and briefly describes the reason for stopping the mediation.

- The panel's involvement is complete. If MOE investigates the incident and determines that a violation did occur, the panel will not be consulted for further investigation or prosecution of the parties.

Confidentiality and Conflict of Interest

Subject to the Municipal Freedom of Information and Protection of Privacy Act

LAC mediations and any reports generated from such mediations are confidential. An LAC mediation does not prevent administrative or enforcement procedures from being carried out under provincial or other legislation.

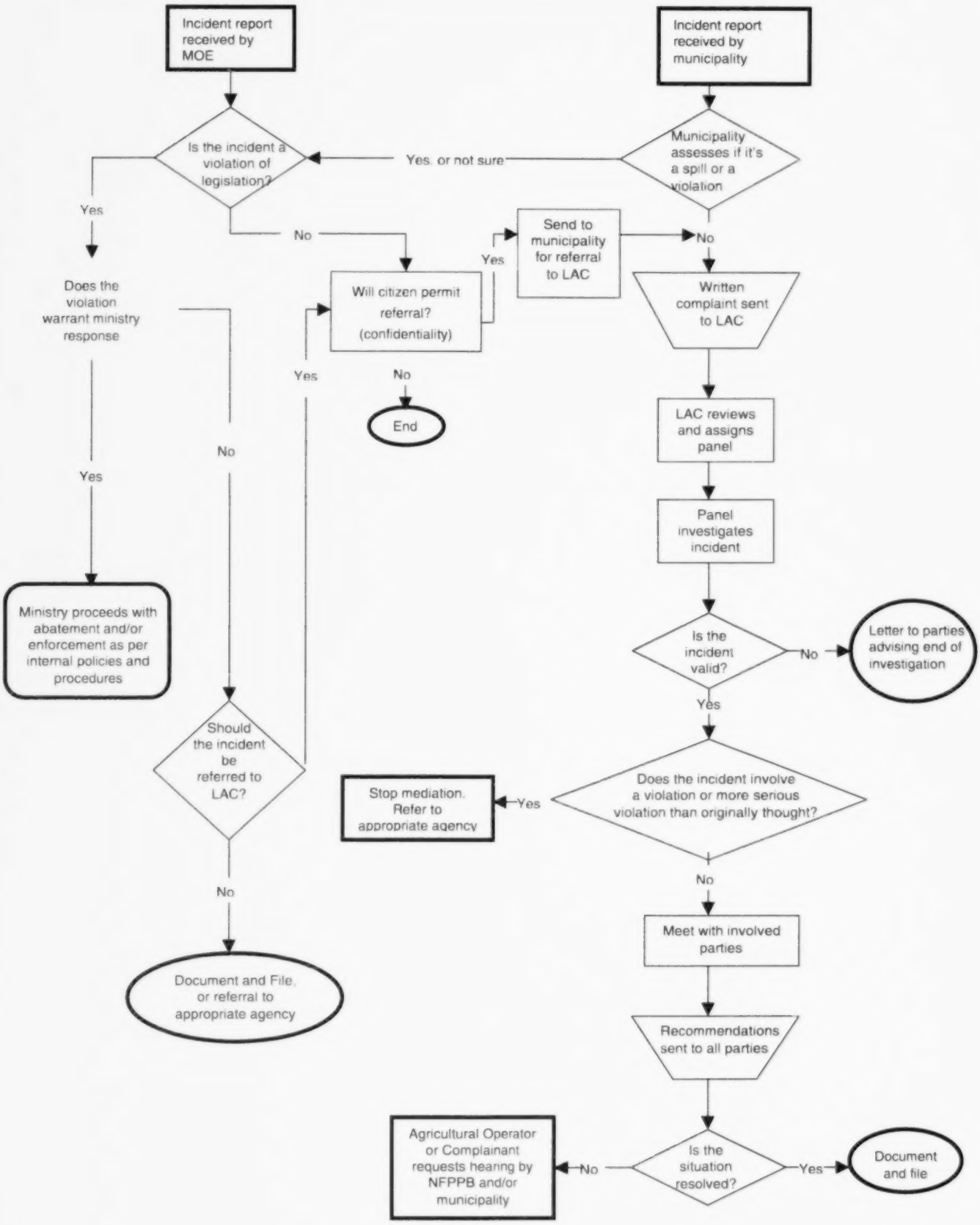
Subject to Municipal Conflict of Interest Act

If any panel member by their own interest or on behalf of others has a pecuniary interest in a matter before the LAC, the member shall disclose their interest prior to beginning the mediation, and have all parties agree to proceed with the mediation.

REFERENCES

Caldwell, Wayne and Ball, Jennifer. *Ten Steps to Creating a Local Advisory Committee*. School of Environmental Design and Rural Development, University of Guelph, 2003.

FIGURE 1. Sample Flow Chart for Incident Management by Local Advisory Committees (LAC)


Incident report received by MOE
Incident report received by municipality
Is the incident a violation of legislation?
Yes, or not sure
Municipality assesses if it's a spill or a violation
Yes
No
Send to municipality for referral to LAC
Yes
No
Does the violation warrant ministry response
Will citizen permit referral? (confidentiality)
Written complaint sent to LAC
Yes
No
End
LAC reviews and assigns panel
No
Panel investigates incident
Yes
Ministry proceeds with abatement and/or enforcement as per internal policies and procedures
Is the incident valid?
No
Letter to parties advising end of investigation
Yes
Should the incident be referred to LAC?
Stop mediation. Refer to appropriate agency
Yes
Does the incident involve a violation or more serious violation than originally thought?
No
Meet with involved parties
No
Document and File, or referral to appropriate agency
Recommendations sent to all parties
Agricultural Operator or Complainant requests hearing by NFPPB and/or municipality
No
Is the situation resolved?
Yes
Document and file

FOR YOUR NOTES

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Do you know about Ontario's new Nutrient Management Act?

The provincial Nutrient Management Act (NMA) and the Regulation 267/03 regulates the storage, handling and application of nutrients that could be applied to agricultural crop land. The objective is to protect Ontario's surface and groundwater resources.

Please consult the regulation and protocols for the specific legal details. This Factsheet is not meant to provide legal advice. Consult your lawyer if you have questions about your legal obligations.

For more information on the NMA, call the Nutrient Management Information Line at 1-866-242-4460, e-mail *nman@omafra.gov.on.ca* or visit *www.omafra.gov.on.ca*.

Factsheets are continually being updated so please ensure that you have the most recent version.

Agricultural Information Contact Centre
1-877-424-1300
ag.info@omafra.gov.on.ca

www.omafra.gov.on.ca

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